IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE SECOND DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE J.CHELAMESWAR

And
THE HON'BLE MR JUSTICE GODA RAGHURAM

WRIT PETITION NO : 6781 of 2004

Between:

Smt.K.Sitamahalakshmi, W/o Late K.Sambasivacharyulu,
Tadepallegudem Bazaar Post Office, Now at Chipurugudem, Pothavaram
S.O. West Godavari District.

..... PETITIONER

AND

1 The Director of Postal Services, O/o The Postal Master General,
Vijayawada.
2 The Chief Post Master General, Andhra Pradesh Circle,
Hyderabad.
3 The Director General, Indian Postal Services, New Delhi.
4 Union of India represented by its Director (Staff) Department of Communications,
Dak Bhavan, Sansad Marg, New Delhi.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or Order or orders or directions particularly in the nature of Writ of Mandamus calling for the records pertaining to letter of the Director (Staff) ministry of Communications, Department of Posts, Dak Bhavan, New Delhi order No.66/2/2001-SPB-1, dated 18-5-2001 as well as orders dated 2-7-2003 in O.A.335/02 on the file of Central Administrative Tribunal at Hyderabad Bench and set aside the same as arbitrary, illegal and unconstitutional, violative of Article 14,16 and 21 of the Constitution of India and consequently direct the respondents herein to

provide a job under compassionate appointment scheme in any post in Group 'D' category to the petitioner as per her qualifications duly relaxing the rules to the permissible extent as per relevant rules in the interest of justice

Counsel for the Petitioner: MR.M.V.RAJA RAM

Counsel for the Respondents: MR.B.NARASIMHA SARMA

The Court, at the stage of admission, made the following:

ORAL ORDER: (Per: The Hon'ble Mr. Justice Goda Raghuram)

The petitioner's request for appointment on compassionate grounds was rejected by an order dated 18-05-2001 of the 3rd respondent. The husband of the petitioner was a Group-D employee of the Postal Department, who died on 22-01-1994. The petitioner received the terminal benefits due to her husband and is also currently in receipt of a monthly family pension of about Rs. 2,023-00. On the death of her husband, the petitioner made number of representations seeking compassionate appointment. These having been rejected, petitioner filed O.A.No. 605 of 2000 before the Central Administrative Tribunal, Hyderabad Bench (for short 'the Tribunal'). The application was disposed of by the order dated 13-11-2000 directing consideration of the petitioner's representations dated 24-05-1999 and 15-07-1999 within a time frame fixed. Her representations having been duly examined, however, did not commend acceptance by the respondents and were rejected. The reasons recorded in the order of the 3rd respondent dated 18-05-2001, for rejection of the petitioner's claim, are as under:

> "4.The representations of Smt. K. Sitamahalaxmi were examined. It is observed that the specific and limited purpose of the scheme for compassionate appointment is to provide immediate financial support to the family of a government servant who dies in harness or retires on invalidation on medical grounds, without any means of livelihood and to save it from financial destitution. Such appointment can be provided only to fill upto 5% of vacancies that arises for direct recruitment. Further, as per Office Memorandum No. 14014/23/99-Estt. (D) dated 03-12-1999 of Department of Personnel & Training, the nodal Ministry which administers the scheme for such appointments, the committee meant for considering the compassionate appointment cases should take into account availability of vacancy for such appointment and it should be recommended appointment on compassionate grounds only in a really deserving case and only if a vacancy meant for appointment on compassionate grounds will be available within a year that too within the ceiling of 5% of direct recruitment quota. Hon'ble Supreme Court has also observed that the only ground which can justify compassionate employment in relaxation of normal rules is the penurious condition of the deceased family and it should be offered only as relief against destitution. It has also stated that compassionate appointment cannot

be granted after lapse of a reasonable period of time and it is not a vested right which can be exercised at any time in future.

5.Enquiries were got conducted through the office of Chief Postmaster General, Andhra Pradesh circle to ascertain the liabilities to the extent of Rs. 77,000/- as claimed by Smt. K. Sithamahalaxmi. The applicant in para-2 of her representation dt. 3-5-99 stated that she received Rs.66,000/- as total terminal benefits and that there were liabilities to the extent of Rs.76,133/- and the Sub-Divisional Inspector did not make proper enquiries into this aspect in support of her contention, she produced four receipts and three promissory notes. It is reported that the concerned Superintendent of Post Offices could contact two creditors who had loaned Rs.10,000/- each and the creditors had stated that the loans were cleared by Smt. K. Sithamahalakshmi. However, it is seen that the promissory notes were not witnessed either at the time of execution or at the time of repayment of the loan and annulling the note. The genuineness of the promissory notes are at stake, it would appear.

6. Further it has been reported that the applicant has opened two MIS accounts on 30-4-94 and 14-9-94 for Rs.18,000/- each. It do not stand to reason that she could invest of Rs.36,000/- in MIS when she claims that she had spent all the terminal benefits received for clearing outstanding loans. This gives rise to serious doubts about reliability of the promissory notes by her. It is also reported that the applicant is residing in a three room tiled house on 5 cents of land given by Govt., of A.P. to her husband and she has added one kitchen in the year 2000 by incurring about Rs. 12,000/-. During the enquiry, she could not explain how she could spend the amount in this connection.

7. The representations of Smt. K. Sithamahalaxmi have been carefully considered in this Department by the Selection committee constituted for the purpose in the light of guidelines of DOP & T and enquiry conducted by the Circle Office. It is observed that Sri K.S.S. Acharyulu, Gr.D. Tadepalligudem, died on 22-1-1994 leaving behind his wife, Smt. K. Sithamahalaxmi. She received the terminal benefits to the tune of Rs. 56,114/- and she is also getting monthly family pension of Rs. 2023/- p.m. She has her own house to live in.

8. The applicant is the only surviving member in the family and is also in receipt of regular family pension and she has no specific social liability like education of minor children or marriage of daughters etc., The basic purpose

of providing immediate financial assistance is no longer relevant in this case and the applicant cannot be appointed within a year as vacancy under stipulated ceiling 5% of vacancies is not available and the nodal department for this scheme has laid down that such appointment cannot be considered when no vacancy is available within prescribed parameters to provide appointment within a year. The departmental rules also do not permit for appointment as EDA (now called Gramin Dak Sewak) on compassionate grounds to dependents of deceased departmental employee.

9. From the enquiries, it also revealed that she produced documents which were not genuine and that she had suppressed material facts, keeping in view these facts and circumstances explained above and the relevant rules and guidelines, the request of the applicant for appointment on compassionate grounds is not found justified. Accordingly, the representations of the applicant dated 24-5-99 and dated 15-7-99 are hereby rejected."

Aggrieved thereby, the petitioner filed O.A.No. 335 of 2002. The Tribunal, found no infirmity in the order of the 3rd respondent dated 18-05-2001 and rejected the O.A.No. 335 of 2002. The petitioner is, thus, before this court assailing the order of the Tribunal.

In view of the reasons recorded in the order of the 3rd respondent dated 18-05-2001, which are seen to be rational and legitimately related to the object of the scheme of compassionate appointment; and as the petitioner was not found suitable for compassionate appointment within the parameters and percentage of vacancies available for such appointment, we find no justification for grant of any relief in this writ petition. The writ petition is without merits and is accordingly dismissed. No costs.

J. CHELAMESWAR, J

GODA RAGHURAM, J

Dt. 02-09-2004

Pvks/*

To

1 The Director of Postal Services, O/o The Postal Master General, Vijayawada.
2 The Chief Post Master General, Andhra Pradesh Circle, Hyderabad.
3 The Director General, Indian Postal Services, New Delhi.
4 The Director (Staff), Department of Communications, Union of India, Dak Bhavan, Sansad Marg, New Delhi.

5.2CD copies

*Form-NIC-OGS/WP{**VSR**}*